

MASTER



January 4, 2017

TOWN OF IPSWICH MASSACHUSETTS

**HANDBOOK FOR MEMBERS OF TOWNBOARDS, COMMITTEES AND
COMMISSIONS**

2017

INTRODUCTION

Welcome to the constellation of those who assist the Town of Ipswich in its administration, governance, planning and cultural development by volunteering of their energy, intellect, knowledge and time in service on its elected and appointed boards, committees, and commissions. These groups are of vital importance to the Town, its residents and its employees. Your service is greatly appreciated. Ipswich Town Government consists of elected officials, volunteers serving on public bodies, and salaried officials and staff. Non-elected board members are appointed to their positions by “Appointing Authorities”¹ (in Ipswich, the Town Manager, Board of Selectmen, the Town Moderator, the Finance Committee, the School Committee and the Life Feoffees).²

To be effective and efficient these must all work together within a framework of laws, regulations, and fiscal realities. There are two state laws, the Open Meeting Law and the Conflict of Interest Law, that govern the workings of Town government with which board members should be particularly cognizant of and familiar with. The Open Meeting Law seeks transparency and the Conflict of Interest Law seeks to prevent conflicts between private interests and public duties. Violations of these laws are serious matters with consequences.

This Handbook is to help and guide you to serve in ways that will be rewarding, proper and pleasant and with respect for and understanding of the laws and regulations relating to that service. It blends the directions and requirements that are found in state and town directives. **(In the event that this handbook conflicts with any federal, state or local laws or regulations, those laws or regulations take precedence.)** Throughout this handbook the terms “Town board” or “board” apply to every board, committee, commission, or subcommittee whether elected or appointed.

The authority and functions of Town boards and appointed authorities comes from several sources including the Massachusetts Constitution, General Laws and Special Acts of the Legislature, the Town Charter and Bylaws. This Handbook is intended as a resource to assist Board members in doing their work.

As a board member you will participate in meetings, all of which will be public and some of which may be televised, and perhaps you will chair such meetings. To assist you, the first section of this handbook discusses board membership and officers. Subsequent sections are devoted to the conduct of meetings, budgeting and procurement, support services, and definitions.

¹ Appointing Authority is defined on page 1 in the Definitions section.

² According to the Trust Administrative Order approved by the Essex County Probate and Family Court in May 2012, the School Committee and Life Feoffees appoint the Feoffees of the Grammar School in the Town of Ipswich Trust, Section 6 of the Order subjects the Feoffees of the Grammar School to the Open Meeting Law and Public Records Law as “a public body and agency of the Town of Ipswich.”

The purpose and scope of each Town board is defined (1) by the legislative or administrative act or action that created it, (2) in established relevant Town objectives and policies, and (3) in each board's statement of goals and objectives. Town boards generally are not created or appointed to support or assist their appointing authority (with some exceptions). In most cases, there will be an explicit functional relationship between a Town board and a Department within Town government. The Department should provide support for, and guide the efforts of the board; and it is to that Department that requests, advice and counsel, and recommendations should generally be directed.

The "Appointing Authorities" should educate and oversee appointed Town board members to ensure that they conduct themselves properly in all cases and instances, and should act both in response to complaints and on their own motion. This oversight has (of course) to respect the authorities and responsibilities of others and the limits of their own authority. Board members, by accepting appointment, commit themselves to so conduct themselves.

It is recommended that the appointing authority follow up with its commissions, boards and committees on an annual basis to ensure that they are in compliance with their statutory responsibilities such as taking and filing minutes, complying with the Public Records Law and complying with the Open Meeting Law.

The Government Study Committee envisions this Handbook as a living and relevant document and recommends periodic review by concerned citizens and board members. The Government Study Committee encourages the Board of Selectmen and committees and boards to visit, review and revise the Handbook annually to make it a valuable and current resource.

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I. DEFINITIONS

ADJUDICATORY HEARING OR PROCEEDING: A proceeding or hearing before any town board in which the legal rights, duties or privileges of specifically named persons or entities are required by constitutional right or by any provision of the General Laws to be determined after opportunity for a hearing, excluding labor grievances or disputes, or labor negotiations. Generally includes quasi-judicial functions such as permits, approvals and denials issued by the Planning Board, Zoning Board of Appeals, Conservation Commission, Water and Sewer Commissioners, Board of Health, Housing Authority and Selectmen after hearings; not legislative matters. (M.G.L., c. 30A, §1)

APPOINTING AUTHORITY: Any person, board or commission including but not limited to the Board of Selectmen, Finance Committee, Town Manager, Town Moderator or Town Clerk with the statutory authority or other authority through the Town Charter or Bylaws to appoint or designate or employ town board members or personnel. The School Committee and the Life Feoffees are also Appointing Authorities for the Feoffees of the Grammar School in the Town of Ipswich Trust.

COMMITTEE: See Town Board

CONFLICT OF INTEREST LAW: M.G.L., c. 268A.

DELIBERATION: an oral or written communication, verbal, electronic or otherwise, between a quorum of members of a governmental body attempting to arrive at a decision on any public business within its jurisdiction. (M.G.L. c. 30A, §18)

EMERGENCY: a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. (M.G.L., c. 30A, §18)

EXECUTIVE SESSION: Any part of a meeting of a public body closed to the public for deliberations of certain matters. (M.G.L., c. 30A, §§18; 21)

FREEDOM OF INFORMATION ACT: M.G.L., c. 66, §10 provides for public inspection and copying of records, for a fee, following a request delivered in hand or by mail.

GENERAL BYLAWS: The General Bylaws of the Town.

MEETING: A deliberation by a public body with respect to any matter within the body's jurisdiction; provided it shall not include:

- a) on-site inspections, provided there is no deliberation;
- b) attendance by a quorum of a public body at a public or private gathering, including a conference or training, provided that the members do not deliberate.

- c) attendance by a quorum of a public body at a meeting of another public body that has complied with notice requirements of the Open Meeting Law, so long as the members do not deliberate. (M.G.L., c. 30A, §18)

MINUTES: The written report of a meeting created by a public body required by M.G.L., c. 66, §§5A and 22. (M.G.L., c. 30A, §18)

MULLIN RULE, M.G.L., c. 39, §23D (from Mullin v. Planning Board of Brewster, 17 Mass. App. Ct. 139 (1983): The Mullin Rule is applicable to adjudicatory proceedings before the Board of Appeals, Board of Selectmen, Planning Board and Conservation Commission. It requires, subject to the exception below, that members of a town board must have been present at all of the meetings at which the public hearing was held to be eligible to vote on the matter.

A member of any municipal board or committee, when holding an adjudicatory proceeding, shall not be disqualified from voting on the matter solely due to the member's absence from no more than one session of the proceeding at which testimony or other evidence is received *provided that before* the vote, the member has certified in writing, that he/she examined or listened to all evidence received at the missed session. (M.G.L., c. 39, §23D)

OPEN MEETING LAW: M.G.L., c. 30A, §§18-25.

PUBLIC RECORDS: Defined at M.G.L., c. 4, §7, clause 26.

PUBLIC OR GOVERNMENTAL BODY: A multiple member board, commission, committee or subcommittee within the executive branch or legislative branch or with any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; further provided that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body. (M.G.L., c. 30A, §18)

QUORUM: A simple majority of the members then in office unless otherwise provided in a general or special law, executive order or otherwise authorizing provision or as defined by constitution, charter rule or law applicable to such public body. Clark v. City Council of Waltham, 328 Mass. 40, 41 (1951).

RECORD CUSTODIAN: means the governmental office or employee who in the normal course of his or her duties has access to or control of public records.

RULE OF NECESSITY: The Rule of Necessity is to be used as a last resort and upon written advice from town counsel or the State Ethics Commission. It allows an elected or appointed member(s) to act upon a matter if (a) the board lacks sufficient members to take action on the matter solely due to the board member(s) being disqualified by conflicts of interest from participating in the matter, and (b) action by the board is legally required.

MAJORITY: (See Simple Majority, below)

SIMPLE MAJORITY: A simple majority of the members of the public body in attendance, *provided* that a quorum is present.

SUPER MAJORITY: In the case of decisions by the ZBA or Planning Board in overturning the Building Inspector's decision or granting a special permit, the super majority is determined by the number of members of the board. In a three member board, the super majority is three votes and in a five member board, the super majority is four votes.

TOWN AUTHORITY: any person or group of persons, whether elected or appointed, authorized to bind the Town in contract, or to enforce on behalf of the Town the General Laws of the Commonwealth, the Town Charter, the Town Bylaws, or any rule or regulation duly promulgated by the Board of Selectmen, a Town Board, or any agent or delegate thereof.

TOWN BOARD: a Town board, committee, sub-committee, commission or Council, including the Board of Selectmen, created by the Massachusetts General Laws, state regulations, Town Charter, Bylaws, a vote of the Town Meeting, or the Board of Selectmen.

TOWN CHARTER: The legislative document governing the operation of Ipswich Town Government adopted by the Town Meeting and enacted by the Massachusetts Legislature.

TOWN EMPLOYEE: a person performing services for or holding an office, position, employment or membership in a municipal agency of the Town of Ipswich, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent or consultant basis.

II. TOWN BOARDS' RESPONSIBILITIES

It is important for Town boards and the public both to know and understand the general purpose, authority and objective of each board. To this end, and where appropriate, each Town board should develop a clear, succinct and comprehensive statement of goals, objectives and priorities, consistent with its statutory charge and related to the purposes for which each board was formed; and keep that statement relevant and up-to-date. It is recommended that statement be posted and updated on the board's Web page. The most recent list of committees, accompanied by their statement, may be viewed on the Town's website as an Appendix on the page.

III. TOWN BOARD MEMBERSHIP

To participate on a Town board within the Town of Ipswich, an application must be filed with the Town Manager/Board of Selectmen, unless the appointee is otherwise presented to the appointing authority. The applicant's status must conform to statutory requirements for membership. The Town Manager will forward the application to the appropriate Appointing Authority. The Town Manager's office maintains a directory of which Appointing Authority is empowered to appoint members to each Town board. Committees should have at least five members unless otherwise required by law, general or special regulations or the Town's Bylaws

or Charter.

Please consider your own reputation and the good standing of your Town board as you interact with Town residents and discuss Town affairs. Always avoid making personal comments and remarks about individuals. If you have concerns about the public behavior of any individual in Town government or behavior that affects their ability to act with civility and fairness, they should be brought to the attention of the Town Manager. Please be aware that individual members of boards have no authority except by way of votes of the board on which they serve; unless the statutory authority provides otherwise.

A. APPOINTMENT PROCEDURES

Once the decision is made to appoint a member to a Town board, the *Appointing Authority* shall be responsible to:

1. Make appointments to Town boards pursuant to the Town Charter or Bylaws. Notify the appointee of his/her appointment in writing and inform him/her of the need first to be sworn to the faithful performance of their duties, before he/she may sit as a member or alternate member of a Town board.
2. File a completed Appointment letter with the Town Clerk for each appointment made to a Town board.
3. Within two weeks of the election, appointment or the taking of an oath (whichever occurs later), a board member completes a "Certificate of Receipt of Open Meeting Law Materials" sent by the Town Manager's office, and certifies that the member understands the requirements of the Open Meeting Law and the consequences for violating it. (Open Meeting Law Guide, Office of Attorney General, August 1, 2013, p.1.)
4. Within 30 days of becoming a board member, and periodically thereafter, each member is furnished with a summary of the Conflict of Interest Law and signs an acknowledgment to be filed with the Ipswich Town Manager's Office. Board members must biennially complete an on-line training exercise.

The Appointee is responsible to:

1. Accept the appointment within (30) days of the date the appointment was made, or forfeit the appointment and have the Appointing Authority consider the appointment to be void as of that time.
2. Appear at the office of the Town Clerk as soon as practicable after receiving notification of appointment to a Town board; sign the notice accepting such appointment; and be sworn to the faithful performance of his/her duties. Until the appointee (or re-appointee) is so sworn he or she is not a member and is not authorized to deliberate or vote on any matters.

3. Review the summaries of the Conflict of Interest Law (Mass. General Laws c. 268A) (“COI”) and Open Meeting Law (Mass. General Laws c. 30A §20-25) (“OML”) provided by the Town Manager’s office and sign the Acknowledgement and file it with the Appointing Authority who will also file a copy with the Town Clerk.

The *Town Clerk* is responsible to:

1. Administer the oath of office.
2. Maintain a file of all letters of appointment as a public record available for inspection.

The *Town Manager*:

1. Maintains a roster of the membership of all Town boards as provided by Appointing Authorities to the Town Manager, including the following information for each board member:
 - (a) name;
 - (b) mailing address; and
 - (c) date of term expiration.

B. COMPENSATION

A member of a Town board shall be a volunteer and shall not receive compensation for service on that board (with the exceptions of the Board of Selectmen and School Committee) but may be reimbursed for vouchered expenses pertaining to Town business on behalf of that board, providing that prior approval of the spending authority has been obtained (unless that board has a specific budget or fund with direct spending authorization). (See also relevant provisions of the Conflict of Interest Law [“COI”].)

C. INELIGIBLE FOR MEMBERSHIP

Any paid Town employee with supervisory duties whose status does not conform to statutory requirements regarding membership on a particular board, is ineligible to vote on that Town board. A paid employee of the town shall not be a member of a Town board that is in any way related to his/her employment during his/her term of office or for at least one year after leaving Town employment.

In regard to participation on a board with adjudicatory authority, the Town’s policy is that no person shall serve simultaneously as a member/alternate member of more than one of the following Town boards: Conservation Commission, Board of Health, Historical Commission, Planning Board, Zoning Board of Appeals or Board of Selectmen.

D. REAPPOINTMENT

Reappointments are not automatically issued. A board member must reapply before the end of their term if the member desires and is eligible to serve again, and must be sworn in each time that they are reappointed. (See Appointment section, above) A board member may continue to serve after the expiration date of their appointment, until a successor is chosen. Boards without designated terms of membership shall have members appointed for three (3) years. Some boards have limits on reappointments.

The Board of Selectmen has adopted a policy concerning retention and reappointment of non-residents on appointed boards, commissions and committees of the Town of Ipswich. This policy is presented in Appendix E.

E. RESIGNATION

A board member who is no longer able to serve should resign promptly so that the vacancy may be filled. A written resignation letter needs to be submitted to the Town Clerk in accordance with M.G.L., c. 41 (“Officers and Employees of Cities, Towns and Districts”), §109 (“Resignation, notice; residence requirement”). The Town Clerk will inform both the chair of the board and the Appointing Authority. Resignations are not effective until the Town Clerk receives them. The replacement member cannot be sworn in until the Town Clerk receives the resignation.

F. TERMINATION

Any non-elected member of a Town board may be removed by the Appointing Authority for substantive cause meaning for reasons of lack of fitness, neglect of duties, malfeasance, misfeasance, incompetence, abuse of office, felony prosecution while in office, violation of oath, or failure to comply with the directives of the Mass. Conflict of Interest Law (M.G.L. c.268A); in accordance with the following procedure:

1. If the Appointing Authority is a board subject to the Open Meeting Law, it shall deliberate the removal decision in Executive Session unless the appointee requests that the hearing be held in open session as provided below. (See M.G.L. c. 30A, §21, allowing executive session to discuss the discipline or dismissal of an individual. If the Appointing Authority is the Town Manager, the Town Manager shall afford the appointee a hearing in private session. A prior written notice of the intent to remove and a statement of the reasons therefor shall be delivered by registered mail to the last known address of the member being considered for removal.
2. If the Appointing Authority is a board subject to the Open Meeting Law, within fourteen days of receipt of the notice, the member may request a hearing open to the public. Executive Sessions may be held only in compliance with M.G.L., c. 30A, §21.
3. Such member may be represented by counsel at the hearing, and is entitled to present evidence, to call witnesses, and to examine any witness appearing at such hearing.

4. Within ten days after the hearing is adjourned, the Appointing Authority may, by a majority vote (where applicable), remove the member.
5. A notice of a decision to remove the member and the reasons therefor shall be delivered by registered mail to the last known address of the member.

An appeal of that decision may be made to Superior Court in accordance with state law.

Nothing in this section shall be construed as granting a right to such a hearing when a member who has been appointed to a fixed term is not reappointed when his or her term expires.

G. VACANCY

The Chair of any Town board shall notify the Appointing Authority and the Town Manager in writing when a vacancy occurs on the Town board. The Appointing Authority shall make a reasonable effort to fill the vacancy within sixty days of receipt of the notice of vacancy.

H. ALTERNATE AND ASSOCIATE BOARD MEMBERS

Alternate board members are appointed only to those boards whose enabling legislation specifically authorizes such appointments and only as so authorized. Alternate members must be sworn to their position and responsibilities. An alternate member participates fully on matters before the board, but votes on those matters only in the special circumstances discussed here. If a member of a Town board is absent or excused from voting on a certain issue, an appointed alternate member shall assume the powers of that member. If two alternates are present but only one is needed, the one shall be selected by seniority. The selected alternate shall sit on a given matter until its conclusion. The presence of such selected alternate member or members shall be counted in the determination of the existence of a quorum.

Associate members may be appointed or chosen to sit and participate on town boards, by and at the discretion of the board's Appointing Authority or on motion of the board and ratified by the Appointing Authority. However, and in contrast to alternate members, associate members shall not vote on any matter before the board with which they sit. The presence of associate members may not be counted in the determination of the presence of a quorum.

When a seat of a regular member becomes available an alternate or associate may not automatically assume that position. If an alternate or associate member desires to become a regular member he/she must make application to the Appointing Authority.

IV. OFFICERS

The duties that are described for officers originate from general practice. A Town board, through a majority vote of its members, can further define and/or redefine these responsibilities. Additionally, Robert's Rules of Order also defines the responsibilities of each Town board officer. (Robert's Rule of Order may be accessed, reviewed, and downloaded at

www.robertsrules.com.)

A. ELECTION OF OFFICERS

All Town boards shall annually elect a Chair and other necessary officers. Each Town board has the discretion to elect other officers.

B. CHAIR

The Chair schedules and presides at all meetings, sets the agenda, decides questions of order, calls special meetings, and signs official documents that require the Chair's signature. The Chair has the same rights as other members to offer resolutions, make or second motions, discuss questions, and vote thereon. The Chair is also responsible for ensuring that the provisions of the Open Meeting Law are met. A Town board, through a vote of the majority, may extend additional authority to the Chair. The Board of Selectmen encourages the rotation of the Chair of a Town board at least every 2 years.

C. VICE-CHAIR

The Vice-Chair acts for the Chair whenever the latter is absent from meetings and performs other necessary duties.

D. SECRETARY/CLERK

The Secretary/Clerk is responsible for the following duties of the Town board:

1. Schedule meeting location through the Facility Department.
2. Post the meeting with the Town Clerk's office, in compliance with the Open Meeting Law.
3. Prepare agendas in conjunction with the Chair, as well as any other materials. The tentative agenda for the next meeting and minutes of the previous meeting should be prepared and available to each board member prior to each meeting.

Take and prepare the minutes for approval or modification by the Town board. The structure and minimum content should follow the guidelines of the OML. A sample set of minutes for guidance only is attached in Appendix D.
4. Where applicable, process the accounts payable and turnovers for the board to the Accountant's Office.
5. The Secretary/Clerk is requested to submit meeting minutes for posting on the Web site.

E. PAID SECRETARY

If a Town board determines that its workload or meeting schedule is such that the Secretary's responsibilities will have an adverse impact on the board's operation, the board may submit a budget request for an on-call secretary through the standard annual budget process. If immediate assistance is required, a written request should be made to the Town Manager that outlines the amount, type and frequency of need.

V. CONFLICT-OF-INTEREST

The Massachusetts Conflict-of-Interest Law (M.G.L., c.268A) sets a minimum standard of ethical conduct for all municipal employees and officials. Enacted in 1962, the conflict law's goal is to promote confidence in our government and in the integrity of its officials.

The purpose of the Conflict-of-Interest Law is to ensure that public officials and employees do not use their positions to obtain financial benefits for themselves, their family members, their business organizations, or their employers. The Conflict-of-Interest Law applies to town officials and employees – all elected and appointed full- and part-time, paid and unpaid positions, unless exempted by law. The Conflict-of-Interest Law also applies to board members who are defined as municipal employees in accordance with M.G.L., c. 268A, §1.

The Massachusetts State Ethics Commission was established in 1978 by the Legislature as an independent civil enforcement agency to enforce the conflict of interest and financial disclosure laws (M.G.L., c.268B). The Commission is a bipartisan, five-member board appointed by the Governor, the Secretary of State and the Attorney General. The Commissioners appoint an Executive Director who heads a full-time staff employed in four (4) divisions: Enforcement, Legal, Financial Disclosure, and Public Education.

There are three (3) different types of conflicts of interest described in sub-paragraph 2 below.

CONFLICT-OF-INTEREST DISCLOSURE

(See also Admin Directive 97-3 of the State Ethics Commission)

1. Purpose

- 1.1 This information is issued for the purpose of ensuring that all Town board members and Town representatives appointed by the Appointing Authority are aware of and comply with the provisions of M.G.L. Chapter 268A, the Conflict-of-Interest Law, including disclosures made under Sections 19 and 23 thereof.

2. Requirements of the Conflict of Interest Law

- 2.1 Actual Conflicts-of-Interest: Do Not Participate. (M.G.L., c. 19) A town board member or representative shall not participate in his/her official capacity in matters in which such participation is prohibited by the

Conflict-of-Interest Law. The Town board member or representative shall, at any meeting where the particular matter is discussed, remove himself/herself from the meeting table at that time, and should leave the meeting room during all times that particular matter is being discussed.³

2.2 Financial Interest in Particular Matters (M.G.L., c. 268A, §19): Make Disclosure to Appointing Authority and Obtain Permission to Participate.

2.2.1 No town board member or representative shall, without obtaining the prior written approval of their Appointing Authority, participate in their official capacity in any particular matter involving a financial interest involving the appointee, his/her immediate family or partner, a business organization in which he/she serves as officer, director, trustee, partner or employee, or any person or organization with whom the appointee is negotiating or has any arrangement concerning prospective employment. (See M.G.L., c. 268A, §19)

2.2.2 In requesting permission of the Appointing Authority, the appointee shall advise his/her Appointing Authority of the nature and circumstances of the particular matter and make a full disclosure of the financial interest. (See, M.G.L., c. 268A, §19)

2.2.3 The appointee may participate on said particular matter only after the Appointing Authority makes a written determination that said financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the appointee. (See, M.G.L., c. 268A, §19(b))

2.3 Appearance of Conflict (M.G.L., c.268A §23): Make Disclosure to Appointing Authority Prior to Official Action.

2.3.1 The Conflict-of-Interest Law provides that public officials and employees must avoid conduct that creates a reasonable impression that any person can improperly influence or unduly enjoy their official favor, or that they are likely to act (or fail to act) because

³ See Graham v. McGrail, 370 Mass. 133, 138 (1976) (“Ordinarily, the wise course for one who is disqualified from all participation in a matter is to leave the room”). There may be circumstances when a board member will be personally affected by a matter and wishes to remain in attendance to listen, or even speak in a private capacity for his or her personal interests. However, remaining in the room to speak for any other person or entity, including a separately incorporated business or partnership that you own, is considered “acting as attorney or agent” for another, which is a separate violation of the State Ethics Act.

of kinship, rank, position or undue influence by any party or person. A reasonable impression of favoritism or bias may arise when a public official acts on matters affecting a friend's, a business associate's or a relative's financial interest.

- 2.3.2 Notwithstanding the above, Section 23(b)(3) of the COI Law allows public officials to act on matters that may, even if it creates the appearance of a conflict, if they disclose all the facts surrounding the appearance of bias as described below.
- 2.3.3 Elected officials must make such a disclosure in a manner that is “public in nature” (i.e., by announcing it on the record at a public meeting) and by filing a disclosure form under M.G.L. Chapter 268A, §23 with the Town Clerk. Appointed officials must make such disclosures in writing to their Appointing Authority, and the disclosure must be kept available for public inspection (See below).

3. Disclosure Procedures under the Conflict of Interest Law

- 3.1 When an appointee makes a disclosure to the Appointing Authority under M.G.L. Chapter 268A, §19 or §23, he/she shall first obtain the appropriate disclosure form from the State Ethics Division at www.mass.gov/ethics/disclosure-forms/municipal-employee-disclosure-forms.
- 3.2. Once filled out by the appointee and approved by the Appointing Authority, a disclosure form under M.G.L. Chapter 268A, §19 shall be filed and retained by the Appointing Authority. The appointee shall not participate in the particular matter until and unless the Appointing Authority has granted written permission for the appointee to do so.
- 3.3. Once filled out by the appointee, a disclosure form under M.G.L. Chapter 268A, §23 shall be filed in duplicate with the Appointing Authority.
- 3.4 The Appointing Authority shall maintain the disclosure forms for elected officials only. The Town Clerk shall maintain a separate file of disclosure statements which shall be available for public inspection.
- 3.5 In the public meeting at which the appearance of conflict arises, it is the Town's policy that the appointee should make an oral disclosure for inclusion in meeting minutes.

4. Policies of the Town of Ipswich

- 4.1 Applicability of Policy. This policy applies to all appointments made by an Appointing Authority.
- 4.2 Responsibility of Appointee. It is the responsibility of each Town board member or appointed representative to determine for themselves whether or not to recuse themselves from voting or to make disclosures prior to acting on a particular matter where a conflict exists or may exist.
- 4.3 Failure to Comply as Basis for Removal from or Non-Reappointment to Office. In addition to any sanctions which may be imposed by the State Ethics Commission, failure to comply with this directive may be the basis for the appointee's removal by the Appointing Authority, or for his/her non-reappointment upon term expiration.

5. Distribution and Education

- 5.1 The Town Clerk shall maintain and distribute educational materials from the State Ethics Commission to appointees and the general public.

A. OBTAINING LEGAL ADVICE (M.G.L. Chapter 268A, §22)

At any time, a Town board member can contact the State Ethics Commission and receive informal legal advice or request an advisory opinion. A member may call the State Ethics Commission's Legal Division at (617) 727-0060 for informal, confidential advice on the conflict law, or seek a written advisory opinion from the Ethics Commission. If a member has a question about his/her own activities, he/she should request an opinion prior to engaging in the activity in question. Requests to the Commission for an advisory opinion must be in writing and must be about a real, not hypothetical, situation which presents a problem under the conflict-of-interest law.

This law also entitles municipal employees (including appointed members), with the approval of the Town Manager, to an opinion by Town Counsel relating to the duties, responsibilities and interests of the employee. Formal opinions provided by Town Counsel are public records and a copy must be filed with the State Ethics Commission and with the Town Clerk.⁴

B. FILING A COMPLAINT

Anyone can file a complaint concerning a conflict-of-interest – in person, over the telephone or

⁴ A municipal employee may act in reliance on a formal opinion of Town Counsel if the State Ethics Commission does not disagree in writing within 30 days. However, an employee may choose to forgo a formal written opinion if he or she decides to recuse himself/herself from participation in the matter.

by letter. The law requires the Ethics Commission to keep the identity of all complaints confidential and the Commission's enabling statute (M.G.L. c.268B) protects a complainant from retribution for filing a complaint with the Commission. If a member believes that a violation of the Conflict-Of-Interest Law has occurred or is occurring, he/she may call or visit the: State Ethics Commission, One Ashburton Place, Room 619, Boston, MA (617) 727-0060; www.mass.gov/ethics.

Town officials do not have legal authority to enforce the Conflict-of-Interest Law apart from initiating a complaint with the State Ethics Commission. If the Chair of a board or committee has reason to believe that a member may have a conflict of interest with respect to a particular matter, the Chair should encourage that member to seek legal advice before participating in the matter. When possible, the Chair may (but is not required to) delay discussion of the matter until such advice has been obtained, but the Chair may not bar the member from participation.⁵

VI. MEETINGS OF TOWN BOARDS

Unless otherwise stated, the requirements and procedures identified in this handbook apply to all types of meetings including: special meetings, workshops, emergency meetings, subcommittee meetings, and public hearings. A public meeting occurs at any time a quorum of the Town board (or subcommittee) members assemble to discuss, deliberate or consider any public business or policy over which the board has some jurisdiction or advisory power. A public hearing is a special case of a public meeting in which the rights, duties and obligations of an individual or other entity are discussed and determined, and includes adjudicatory hearings.

A. OPEN MEETING LAW

(Please refer to Appendix B and the statute for a complete description of the Open Meeting Law.)

The Massachusetts Open Meeting Law requires that all meetings of elected or appointed boards, committees or subcommittees be open to the public except for the ten specific situations (listed below) where Executive Session is required or permitted. The law does not apply to chance meetings or social occasions; however, such meeting cannot be used to circumvent the requirement of discussing and deliberating at public meetings. The law does not apply to administrative meetings or advice on administrative matters.

Basic Requirements:

1. All meetings of a governmental body shall be open to the public and any person shall be permitted to attend any meeting except under those circumstances listed below. (M.G.L., c.30A, §20)

⁵ There may be circumstances where the participation of a member with a conflict could expose the board's decision to legal challenge or otherwise jeopardize the validity of the board's decision. The Chair should seek advice from Town Counsel, through the Town Manager's office, to determine the best way of handling any such situation.

2. No quorum of a governmental body shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as provided by the circumstances listed below.(M.G.L., c.30A §21)
3. No votes taken in open session shall be by secret ballot. (M.G.L., c.30A §22)
4. Except in an emergency, a notice of every meeting of any governmental body shall be filed with the Town Clerk at least 48 hours prior to meeting, excluding Saturdays and Sundays and legal holidays. (M.G.L., c. 30A, §20b)
5. The notice shall be printed in easily readable type and shall contain the date, time, and place of, and agenda for, such meeting. (M.G.L., c. 30A, §20)
6. Executive Sessions: Every subject to be discussed in executive session must appear as an item on the agenda posted with the notice of the meeting filed at least 48 hours before the meeting in the same manner as the topics listed for open session. If the Chair anticipates discussion of the topic in Executive Session, this should be indicated on the agenda. An Executive Session can then be moved during the properly posted meetings for the stated Executive Session reason(s) displayed under "Reasons for Convening Executive Session." (M.G.L., c. 30A, §21)

B. PRE-MEETING REQUIREMENTS

1. Posting Pubic Meeting Notice & Reserving Meeting Room Space

Current Town practice is that the Facilities Manager shall assign the meeting space requested for the period of time requested unless such space has already been assigned; whereupon the Town board shall request another location or period of time.

At least forty-eight (48) hours prior to (excluding Saturdays, Sundays and legal holidays) any meeting of a Town board which is to be held, the meeting must be posted with the Town Clerk's office by law. Postings must be submitted at least one (1) hour prior to the close of Town business. Posting must be completed on the official Public Meeting Notice form (Appendix D).

There is a current practice of filing the Public Meeting Notice with the Town calendar. Filing with the Town calendar is not a substitute for filing with the Town Clerk. <http://www.ipswichma.gov/formcenter/town-clerk-13/meeting-notice--2016-74>

It is the responsibility of the person calling a meeting of a Town board to first ascertain from the Facilities Department the specific availability of any meeting space listed for a particular day and time.

The Facilities Department maintains a calendar, to provide a record of which accessible meeting spaces are assigned to which Town boards for particular periods of time. Such calendar is available for public inspection, and may be used by Town board Chairs in selecting times and

locations for their board meetings.

For each meeting of a Town board, the Chair or other authorized member of such board shall timely submit to the Town Clerk a completed Public Meeting Notice form provided by the Town and available on-line:

1. Stating the name of the board; day, date, time and location of meeting and signature of authorized individual with the name of the authorized individual printed below; and
2. An agenda containing all items, including executive session, which are reasonably anticipated by the Chair to come before the Town board at a meeting.

The Town Clerk shall promptly post on-line and on the Town bulletin board at Town Hall a copy of the approved Public Meeting Notice form together with the agenda. In order to ensure compliance with the Open Meeting Law, incomplete notices will not be accepted for posting by the Town Clerk's Office.

It is recommended that meetings, agendas and minutes be posted on the Town's website.

C. MEETING TIMES

Town Boards are encouraged to schedule public meetings when the public can reasonably be available. Meetings on Sundays and state and federal holidays are not allowed; except in emergencies.

D. AVAILABLE MEETING ROOMS

Meetings must be held in any public location physically accessible to the handicapped. A. This provision shall not prohibit on-site inspection when necessary for the proper conduct of Town business. (General Bylaws V & VI). All meeting rooms must meet the standards for barrier-free access.

E. CONDUCTING A MEETING

In all procedural matters, it is suggested that meetings of Town boards follow the latest revised edition of *Robert's Rules of Order*, except as provided by the adoption of rules and regulations governing the conduct of adjudicatory hearings. (www.robertsrules.com) The board chair is responsible for the conduct of the meeting and for the conduct of board members during the meeting. It is strongly recommended that for televised meetings of committees, commissions and boards, each member introduce himself/herself to the audience at the outset.

F. ELECTRONIC RECORDING BY OBSERVERS

Upon notification to the chair, an open meeting of a Town board may be recorded by any person in attendance by means of a tape recorder or other means of sonic reproduction, or by means of videotape equipment fixed in one or more designated locations determined by the governmental body, provided that in such recording there is no active interference with the conduct of the meeting. The chair must inform other attendees, at the beginning of the meeting, of the intent to so record. A meeting held in executive session may not be recorded by the public.

(M. G. L., c30 §20)

G. EXECUTIVE SESSION

An Executive Session is a meeting that is closed to the public for one of the ten purposes listed below pursuant to M.G.L., c. 30A, §21. The following required procedures must be followed:

1. The Town board shall first convene in an open session for which an agenda had been posted.
2. A motion is made to enter into an Executive Session that includes a statement of the purpose for the Executive Session.
 - a. If the purpose of the Executive Session is to (1) discuss strategy with respect to collective bargaining or litigation, or (2) discuss the purchase, exchange, lease or value of real property, the Chair must have also stated his/her opinion that an open meeting will have a detrimental effect on the Town's bargaining or negotiation position.
 - b. If the purpose of the Executive Session is to interview applicants for employment or appointment by a screening committee, the Chair must have stated his/her opinion that an open meeting will have a detrimental effect on the Town's ability to obtain qualified applicants for the position.
3. A majority of members have voted to go into Executive Session, and the vote of each member is recorded on a roll call vote and entered into the minutes.
4. The Chair states before the Executive Session whether or not the governmental body will reconvene after the Executive Session. (M.G.L., c. 30A, §21)

All votes taken in Executive Sessions shall be recorded roll call votes and shall become a part of the record of said executive session. The minutes of Executive Sessions should be released when all matters before the executive session are closed.

REASONS FOR CONVENING EXECUTIVE SESSION

(M.G.L., c. 30A, §21)

(Please refer to Appendix B and the statute for a complete description of the Open Meeting Law.)

1. To discuss the reputation, character, physical condition or mental health – rather than the professional competence of an individual or to consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual. Individuals must be provided notice and have the right to open session.
2. To conduct strategy sessions for negotiations with non-union personnel or to conduct collective bargaining with non-union personnel.
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the government’s bargaining or litigating position and if the Chair so declares on record beforehand. Also, to conduct strategy sessions in preparation for negotiations with non-union personnel; to actually conduct collective bargaining and contract negotiations with non-union personnel.
4. To discuss the deployment of security personnel or devices or strategies.
5. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
6. To consider the purchase, exchange, taking, lease or value of real property if holding an open meeting may have a detrimental effect on the negotiating position of the governmental body *and if the Chair so declares on record beforehand*.
7. Comply with law or grant-in-aid requirement.
8. Preliminary screening interview for employment *if holding and open meeting would have a detrimental effect and if the Chair so declares on record beforehand*.
9. To confer with a mediator on litigation or decision on public business.
10. To discuss trade secrets or confidential or proprietary information provided in the course of activities conducted by a public body as an energy supplier.

VII. MINUTES AND RECORDS OF TOWN BOARDS

M.G.L. Chapter 30A, §22

M.G.L. Chapter 66, §5A

A. GENERAL

Every Town board is required to maintain accurate records of its meetings referred to as “minutes.” All “original copies” of minutes should be promptly filed with the Town Clerk within ten days of acceptance by the Town board. It is recommended, if the board maintains a Webpage, that approved minutes be posted thereon. The Chair should make a reasonable effort to have draft

minutes available at the subsequent posted meeting for review and acceptance.

Each set of minutes must be typed and include the following:

- ☐ The date and time of the meeting.
- ☐ The location of the meeting.
- ☐ The names of members who are present.
- ☐ The name(s) of members who are absent but had informed the Chair.
- ☐ The name(s) of members who are absent but had not informed the Chair.
- ☐ An “exact record” of motions, votes and official actions taken.
- ☐ The subjects that were discussed.
- ☐ A listing of the documents and exhibits used at the meeting.

Minutes may also include or have attached to them:

- ☐ Assignments.
- ☐ Names of additional participants of the meeting.
- ☐ Supporting materials, letters, requests and reports.
- ☐ Brief summaries of discussion (recommended only if, and to the extent that they are helpful in understanding decisions or provide factual information that may be useful to the board).

(OML Ruling 2011-34 applies)

The minutes need not be, and should not purport to be, a verbatim transcript of all that was said at the meeting.⁶ Many boards record their meetings or rely on notes taken to prepare written minutes at a later date. Recordings may not be used as a permanent record of meetings. Written minutes must be prepared using the information outlined above. Until the minutes are prepared and approved on paper any recordings are the public records of the proceedings and must be available for public inspection. In addition, until the minutes are approved, the notes of the Secretaries and the draft of the minutes are public records, and must be made available for inspection and copying if requested. A sample set of minutes is included in Appendix D.

Current practice is for the electronic copy of the minutes to be filed with the Town Manager and a hard copy to be filed with the Town Clerk (by law). If there is a question regarding the placement of the minutes on the Town website, the Chair should consult the Appointing Authority.

VIII. VOTING

A. CALCULATION OF MAJORITY VOTE

⁶ The preparation of highly detailed minutes that attempt to capture every aspect of the discussion consumes a lot of time and resources, is not required by law, and is not generally helpful to the administration of the board’s duties. For quasi-adjudicatory hearings where a verbatim transcript may be needed or desirable, the board should make use of the Town’s video recording capability to ensure that a verbatim transcript can be prepared at a later time.

The general common law rule is that, in the absence of an express statute or regulation to the contrary, a simple majority vote (i.e., one vote more than fifty percent) will prevail. When a quorum is present, a majority of that quorum has the right to take action that is within the power of the entire body.

Certain statutes prescribe a higher quantum of vote requirement than would otherwise apply under the common law rule. For instance, a vote to overturn a building inspector's decision by the ZBA and a vote to issue a Special Permit by the Planning Board must be 4-1 with a five (5) member board or unanimous with a three (3) member board. Members are advised to know the statute or keep it handy during voting or deliberations.

In the absence of a statutory restriction, a requisite majority vote is calculated based on the number of members present and voting, not on the entire membership, present or absent. When a statute states that a valid vote requires "a majority of the Board," the Chair should not necessarily read this as requiring that a majority of the full membership must vote in favor. As long as a quorum is present, the calculation of a "majority" should be based on only those members present and voting.⁷ However, in cases where the statute requires the signatures of a majority of the board on a decision or plan, and in all matters involving decisions under the Zoning Act and Subdivision Control Law, a majority (and in some cases, a supermajority) of the full membership is required.⁸

If a member is not present at a meeting the member can only vote on a matter as provided in the Policy of the Board of Selectmen adopted and set forth in Appendix E "Remote Participation Policy." Absent members of the board do not affect the vote. See also the discussion below of the Mullin Rule which is applicable to certain adjudicatory proceedings wherein a member who misses more than one (1) meeting may be excluded from deliberating and voting.

Example using a five member board: If three members are present (which is a quorum), then a 2-1 vote is a valid, majority vote of the board.

Abstentions are not counted. Given the presence of a quorum, a majority of the votes actually cast is sufficient. It is not essential that at least a quorum should actually vote. Nor is it required that the action receive the favorable votes of a majority of all members present. A board member who is present for the vote may abstain from voting and not affect the outcome.

Tie Vote. A tie vote of a motion is to defeat the motion since an approved vote requires a majority vote, one vote more than fifty percent.

B. QUORUM

⁷ See *Clark v. City Council of Waltham*, 328 Mass. 40, 41 (1951), where the Court upheld as valid the Waltham City Council's vote to confirm a mayoral appointment by a vote of 4 to 1, with five abstentions and one counselor absent.

⁸ See *McElderry v. Planning Board of Nantucket*, 431 Mass. 722, 726-727 (2000).

A quorum for a meeting of any Town board shall be a majority of the members of the public body then in office. No action of a Town board shall be valid and binding unless taken or ratified by an affirmative vote of the majority of the members attending the meeting, unless another quantum of vote is allowed or required by the Massachusetts General Laws. If a member of a Town board is absent or excuses him/herself from voting on a certain issue, an alternate shall assume the powers of a member if the enabling statute so provides. If two alternates are present but only one is needed, the one shall be selected by seniority, provided both would be able to attend and participate in all subsequent proceedings of the petition(s) presented for consideration by the Board.

C. REMOTE PARTICIPATION

In general, members of a public body who do not attend a meeting when evidence or testimony is presented cannot deliberate or vote by proxy. The Board of Selectmen in accordance with authorizing state law has adopted a policy permitting remote participation of board members for specified purposes including voting, under certain circumstances. This governing policy is set forth in Appendix E, and applies to all Town boards and bodies. In addition, as discussed below, certain public bodies require attendance at all meetings in order to deliberate and vote. (See Mullin Rule exception, M.G.L., c. 39, §23D for missing one (1) public meeting and reviewing the material presented at the public meeting).

D. RULE OF NECESSITY

The Rule of Necessity may be invoked by members of a Town board or commission who are disqualified under the conflict of interest statute, M.G.L., c. 268A, resulting in a failure of a quorum necessary to act. By invoking the Rule of Necessity, all of the disqualified members can participate in vote, notwithstanding the illegal conflicts, but only if the following four (4) conditions exist:

1. One or more members of a Town board or commission must be disqualified from acting on a matter before the board due to a conflict of interest; and
2. The board must be legally required to take action by a certain time; and
3. The failure of the disqualified member(s) to participate would deprive the board of the number of members required to take an affirmative vote; and
4. A quorum of the same board cannot be obtained by reconvening at a later time, and there is no other board empowered to hear the matter.

See **Advisory Opinion 05-05 Rule of Necessity issued by the State Ethics Commission**, as found at <http://www.mass.gov/ethics/education-and-training-resources/educational-materials/advisories/advisory-05-05-rule-of-necessity.html>.

A. HEARINGS

There are several types of hearings or proceedings.

B. ADJUDICATORY HEARINGS OR PROCEEDINGS

The Board of Selectmen, the Conservation Commission, the Board of Health, the Planning Board, and the Zoning Board of Appeals may adopt rules and regulations governing the conduct of adjudicatory hearings/proceedings.

C. PUBLIC HEARING (M.G.L. Chapter 30A, §20)

A Public Hearing is a process of collecting information that pertains to the pros and cons of an idea, motion, or proposed action from individuals, usually after some form of public notice.⁹ It is a tradition that Public Hearings provide each individual who desires to speak a reasonable opportunity to voice his/her opinions. It is important that the Chair of the Town board state clearly how the public hearing will be conducted and stay with the described process. Also, no Town board shall accept as testimony, evidence or attestation, nor cause to be read into the public record or minutes of any meeting, any statement or correspondence in which an author fails to identify him/herself or list the author's place of residence. This is not to exclude the right of the author thereof to have the board withhold the name and/or address upon request.

Suggested Public Hearing Procedures

1. The Chair will open the hearing by identifying the purpose of the Hearing, reading the Hearing notice aloud, and explaining the rules to be followed during the Hearing.
2. If testimony at the hearing must be given under oath, a five-minute recess will be taken to permit speakers to register with the Chair or Secretary of the town board. When the Hearing is reconvened, the Chair will render the oath in front of all present.
3. Hearing Format:

Proponents are the first presenters of arguments, and then may be questioned, first by members of the Town board, and then by the public through the board chair.

Opponents then present their arguments, followed by questioning, first by members of the Town board, and then by the public through the board chair.

⁹ The Chair should check or be familiar with the relevant statutes and the Town Bylaws to confirm whether there is an advertising requirement for the public hearing notice, and the lead time required for any such notice. In some cases, written notice to the person or entity who is the subject of the hearing is sufficient and public notice (advertising) is not required.

The Chair may then call a recess to allow Proponents and Opponents to prepare concluding statements and/or rebuttals as desired. The hearing will then be called back into order.

The **Proponents** and then the **Opponents** may present their concluding statements and/or rebuttals. Members of the Town board may question each in turn. If the Chair is satisfied that the issue has been thoroughly and fairly aired, the public hearing may be closed or, if necessary, continued to a date certain.

The Board may then discuss the matter, may by vote make a decision regarding the matter may defer that decision to a subsequent meeting of the board if allowed by statute, or may decide that further information is required prior to making a decision. Board members should be familiar with the different rules extending or continuing hearings, which may require the assent of the Applicant or Petitioner.

4. No questions will be permitted until after the speaker has finished the presentation. Questions will be accepted first from board members and then from the public. All public questions will be addressed through the Chair. Questioners will identify themselves to the Chair, state their questions, and specify to whom they are addressed. Any disagreement with answers is restricted to rebuttal statements.
5. At the completion of arguments, citizens may record themselves in agreement with the speaking side without making another presentation. (This provision is designed to reduce repetition.)

D. PUBLIC HEARINGS ON PROPOSED RULES AND REGULATIONS

Certain Town boards have the authority by general or special law, Town Charter or a Bylaw to adopt rules and regulations. This rule making authority is restricted.

Unless otherwise specified by a General or Special Law, the Town Charter or a Bylaw, any new or revised rule or regulation proposed by a Town board shall not be put into effect until the following actions have been taken:

1. The scope of the regulations is limited to the powers, authority and subject matter conferred by statute, Bylaw or Town Charter.
2. **Notification Of Public Hearing.** A Public Hearing shall be advertised and conducted in accordance with related statutes and bylaws. Some public hearings require two notifications on different schedules, by statute. At least fourteen (14) days in advance of the hearing, the text of proposed new or revised rule(s) or regulation(s) must be made available; and the date, time and place of the Hearing together with the text of the proposed regulation (or a summary thereof) shall have been published in a newspaper of general circulation in

the Town and posted both on the bulletin board at the Town Clerk's office and on the Town web page; and

3. Determination And Advertisement Of Final Text. The Town board shall have determined the final text of the new or revised rule or regulation, shall have recorded the fact of such determination, and shall have published the text and effective date thereof in a newspaper of general circulation in the Town. The final adopted text shall be posted on a bulletin board (at the office of the board adopting said regulation if available) and at the Town Clerk's office for 14 days, and shall be posted on the Town web page.
4. A copy of all rules and regulations adopted by a Town board shall be filed in the Office of the Town Clerk and made available for review by any person who requests such information. Electronic availability is encouraged.

IX. REPORTS

Board Reports. Town boards shall report in accordance with requirements of Massachusetts General Laws or of Ipswich Bylaw, Charter or Town Meeting with a copy to the Board of Selectmen.

Annual Reports And Recommendations. The Town Manager or designee will select certain Town board reports to be included in an annual report for the previous calendar year. The report will be an overview of the board's activities, together with any recommendation relative to those activities. The report shall be submitted on a schedule determined by the Town Manager.

X. OFFICIAL FILES AND RECORDS

A. RECORDS OF ACTIVITIES AND ACCOUNTS

The Massachusetts Public Records Law (M.G.L., c.4, §7(26) and M.G.L., c.66, §§5A-10) provides right of access to public records, broadly defined to include all documentary materials except specific exemptions such as personnel and medical files, proposals and bids, and appraisals of property. The minutes, informational data, memoranda and circulating materials of any town board are mostly all public information and available to the public following a written request. Effective January 2017, each municipality must designate one or more employees as record access officers to coordinate and facilitate access to public records. The record access officer is required to establish guidelines for receiving and responding to public records requests in compliance with the Public Records Law. According to the Massachusetts Public Records Law, to obtain a copy of a record, you must make a request to the state or local records access officer. For example, if you wish to obtain a copy of the minutes of an open meeting, you should consult the town website first and then direct your request to the records access officer. Similarly, a request for a copy of a police daily log should be made to the police department that created the log. (Appendix B of this Handbook contains a link to the text of the Massachusetts Public Record Law.) After reviewing the guidelines on the Town's website first, the Town board

may consult with the Town Clerk, or the Supervisor of Records within the Public Records Division of the Massachusetts Secretary of State's Office, if questions arise regarding a request is made under the Public Records Act. The Secretary of State's Office has a link that explains the Public Records Law in detail. <https://www.mma.org/secretary-state-releases-new-public-records-regulations>

Records of the official activities and accounts of all Town boards shall be kept in the manner and form as shall be prescribed by Massachusetts law, the Town Charter or a Bylaw; or as may be authorized by the Board of Selectmen or the Town Manager. M.G.L., c. 66, §§10 and 10A outline the requirements for the public inspection and copying of records and exclusions.

1. Records To Be Open To Public Inspection. Records shall be open to public inspection under the supervision of the record access officer.
2. Security Of Records. Records shall be kept secure in Town Hall or other authorized locations and shall not be removed without proper authorization and custodianship.

Absolutely no official files are to leave their authorized place of storage, except pursuant to Court order. Town staff members who become aware of files leaving their authorized place of storage are to notify the Town Manager or Special Assistant to the Town Manager. Town boards should arrange with the Town Manager for on-site storage of their files. Town boards who customarily meet in buildings other than the Town Hall shall keep their records where directed by the Town Manager.

Every person having responsibility for making public records available shall provide the records in accordance with c.66, §10 and the guidelines on the Town website. The records access officer shall, within ten (10) business days following receipt of a request for inspection or a copy of a public record, comply with such request. To meet the intent of the Public Records Law the following set of protocols are designed to guide Town Boards in providing public access to municipal records. Generally, the Town's website should be consulted first for guidance on public records requests.

1. Public Records of Town Boards

- 1.1 The individual seeking a public record relating to Town Boards shall make the written request to the records access officer.
- 1.2 The records access officer shall make arrangements with the requester for the opportunity to inspect and/or receive copies of the requested materials as described in Subsection 4 below within ten (10) business days per M.G.L., c. 66, §10.
- 1.3 The records access officer shall provide the public records to a requester by electronic means unless the material is not available through that means.

2. *“Inactive” Public Records*

- 2.1 An individual seeking a public record that is stored in the Municipal Archives or filed with the Town Clerk’s Office shall make a request to the designated records access officer.
- 2.2 The records access officer shall make arrangements with the requester for the opportunity to inspect and/or receive copies of the requested materials as described in Subsection 1.2 above of this section.

3. **Access, Definitions and Requirements of the Public Records Law (M.G.L., c. 66, §§5A-10).**

- 3.1 Access to Public Records: The Massachusetts Public Records Law provides that any person has an absolute right of access to public information with a written request, subject to the exceptions cited below.* This right of access includes the right to inspect, or receive records electronically. If the records cannot be provided electronically copies can be provided upon the payment of a reasonable fee, which is currently .05 per page under c. 66, §10(d) unless the records are freely open for inspection. If the request requires more than two (2) hours for the municipal record access officer to respond, the requester may be required to pay for the time exceeding two (2) hours per c. 66, §10 at up to \$25.00 per hour, provided that the response is within ten (10) business days. The statute provides for circumstances wherein the municipality can petition to assess additional fees and circumstances wherein the fee can be waived.

*** The Massachusetts Secretary of State implements the Public Records Law and has a website link at(<http://www.sec.state.ma.us/pre/prepdf/guide.pdf>); <http://www.sec.state.ma.us/pre/prepdf/950-CMR-32-00-2017-Edition-final.pdf>.**

- 3.2 Public Records Defined: The Massachusetts General Laws broadly defines “public records” at M.G.L., c. 4, §7(26) to include all documentary materials or data, regardless of physical form or characteristics, which are made or received by any officer or employee of any Massachusetts governmental entity. As a result, all photographs, papers and electronic storage media of which a governmental officer and employee is the “custodian” constitute “public record” at M.G.L., c. 4, §7(26). There are eleven narrowly construed exemptions to this broad definition of “public record.”
- 3.3 Requesting a Public Record: Requests for public records should be delivered in writing by hand, first class or electronically. The request shall provide a reasonable description of the desired information. The records access officers are expected to use their knowledge of the records within their custody to assist the requester in obtaining the desired information

within the statutory time period.

- 3.4 Responding to a Public Record Request: All requests must receive a response as soon as practicable, without unreasonable delay and within ten (10) business days of the receipt of the request.* The response must either to permit inspection, furnish a copy of the public record or provide a written response to the requester outlining the records which it intends to withhold and the specific reason for withholding, including exemptions or why it will take longer than the ten (10) business days to respond to the request. A denial must detail the specific legal basis for the withholding of the requested materials. The legal basis must include a citation to the statutory exemption upon which the custodian relies and must also explain why the exemption applies. A denial must also advise the requester of their rights to seek redress through the administrative process provided by the Office of the Supervisor of Public Records.

The Public Records Law only applies to information that is in the custody of a public body or governmental body at the time the request is received. There is no obligation to create a record for a requester.

Inquiries into a requester's status or motivation for seeking information are expressly prohibited. Consequently, all requests for public records, even if made for a commercial purpose or to assist the requester in a lawsuit against the holder of the records, must be responded to in accordance with the Public Records Law.

*** If the response is not received within ten (10) business days, the requestor may appeal to the Massachusetts Secretary of State's Office.**

XI. BUDGETING AND PROCUREMENT

A. BUDGETING

In general, a Town board does not have a budget unless one is authorized by Town Meeting. If a board anticipates a need to expend funds, it can request a budget for the next fiscal year only through the budget process beginning with the Appointing Authority.

For the purpose of enabling the Town Manager to make up the annual estimate of expenditures, all boards shall, upon his/her written request, furnish all information in his/her possession and submit to the Town Manager, in writing, a detailed estimate of the appropriations required for the efficient and proper conduct of the board during the next fiscal year. For boards with certain independent revolving accounts that must be annually authorized by Town Meeting, a budget request should be submitted to the Town Manager before funds may be expended. The request must be submitted in compliance with the budget schedule drafted annually by the Town Manager.

B. PROCUREMENT

The ability of a Town board to spend public funds is dependent upon the authority that is approved by Town Meeting. (Acceptance by Town Meeting of a General or Special Law that in itself authorizes a Town board to expend certain funds grants such authority.) For boards that allocate money from any of the gift funds, a request must be sent to the Board of Selectmen for acceptance of a gift and authorization to expend the same without further appropriation (M.G.L., c.44, §53A).

C. DISBURSEMENTS

As bills are incurred by the Town board, the Chair or Secretary shall:

1. Obtain a Schedule of Payment form from the Accountant's office.
2. Complete the Schedule of Payment and attach all original receipts and supporting paperwork.
3. Submit for approval by the Town board and obtain the Chair's signature.
4. Present the packet to the Town Accountant's office for payment.

XII. SUPPORT SERVICES

STAFF SUPPORT

Fundamentally, staff support for Town boards is a matter that is addressed by the Town Manager and the Board of Selectmen during the annual budget process. When special circumstances arise thereafter, a Town board which identifies a need for assistance by Town staff is required to make a formal request through the Town Manager. In the request, the Town board must include the description of the need and issue. The Town Manager will take one of two actions:

1. Approve the request and make assignment to the appropriate employee(s); or
2. Return the request with an explanation.

TOWN COUNSEL

The Town Manager appoints the Town Counsel and must approve any contact with Town Counsel.

If a committee member seeks the opinion of Town Counsel on a committee matter, the committee member should make the inquiry through the Town Manager.

PROCEDURE FOR REQUESTING TOWN COUNSEL'S OPINION:

1. Frame question(s) in writing and provide all supporting documentation.
2. Submit this said request to the Special Assistant to the Town Manager or to the Town Manager. Said request may be via e-mail.
3. The Town Manager will take one of three (3) actions in response to the Town board's request:
 - a) forward the request to Town Counsel; or
 - b) forward the request to Labor Counsel; or
 - c) return to requester with explanation.

XIII. QUESTIONS

Questions regarding this Handbook or membership on a Town board or body should be directed to the Appointing Authority first and then to the Town Manager.

APPENDIX A

Municipal Resources Availability

The following are available and should be obtained online.

- Acts & Resolves of Massachusetts, 1980-Present
- Massachusetts Appeals Court Report, 2001-Present
- Massachusetts General Laws
- Massachusetts Reports, 1999-2012
- Town of Ipswich Annual Town Reports, 1894-Present
- Town of Ipswich Charter
- Town of Ipswich Bylaws

The following are available from the Town Clerk's and/or Town Manager's offices

- Town of Ipswich Personnel Rules and Regulations
- Town of Ipswich Zoning Bylaws
- Town of Ipswich Municipal Archive

APPENDIX B

LINKS TO MASSACHUSETTS STATE DOCUMENTS

Massachusetts Open Meeting Law

Copy available for viewing in the Town Clerk's Office and online at

www.state.ma.us/legis/laws/M.G.L./index.html

1. www.mass.gov/ago/government-resources/open-meeting-law
2. www.mass.gov/ago/docs/government/oml/public-body-checklist-minutes.pdf
3. www.mass.gov/ago/docs/government/oml/public-body-checklist-executive-session.pdf
4. www.mass.gov/ago/docs/government/oml/public-body-checklist-notice.pdf
5. www.mass.gov/ethics/disclosure-forms/municipal-employee-disclosure

Massachusetts Public Record Law

Copy available for viewing in the Town Clerk's Office and online at

www.state.ma.us/legis/laws/M.G.L./index.html

www.sec.state.ma.us/pre/prepdf/guide.pdf

Rule of Necessity

See Advisory Opinion 05-05 "Rule of Necessity" issued by the State Ethics Commission, as found at <http://www.mass.gov/ethics/education-and-training-resources/educational-materials/advisories/advisory-05-05-rule-of-necessity.html>

APPENDIX C

EXEMPTIONS TO THE PUBLIC RECORDS LAW REQUIREMENTS

Summary of “public records” that are exempted from the requirements of the Public Records Law: (The Massachusetts Secretary of State keeps a detailed description of each exemption or consult M.G.L., c.66, §10 and M.G.L., c.4, §7(26))

- a) Withholding from disclosure those documents which are specifically or by implication exempted from disclosure by statute.
- b) Related solely to internal personnel rules and practices of the government unit, provided, however that such records shall be withheld only to the extent that the proper performance of necessary governmental functions requires such withholding.
- c) Personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy.
- d) Inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this clause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based.
- e) Allows the withholding of “notebooks and other materials prepared by an employee of the Municipality which are personal to him/her and not maintained as part of the files of the government unit. (The application of this exemption is limited to records that are work-related but can be characterized as personal to an employee.)
- f) Investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials, the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest.
- g) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing government policy and upon a promise of confidentiality; but this clause shall not apply to information submitted as required by law or as a condition of receiving a government contract or other benefit.
- h) Proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of bids or proposals to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or award a contract to, a particular person.

- i) Appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisals has been terminated; or (3) the time within which to commence such litigation has expired.
 - j) The names and addresses of any persons contained in, or referred to in, any applications for any licenses to carry or possess firearms issued pursuant to chapter one hundred and forty or any firearms identification cards issued pursuant to said chapter and the names and addresses on sales or transfers of any firearms, rifles, shotguns, or machine guns, or ammunition therefor, as defined in said chapter one hundred and forty and the names and addresses on said licenses or cards.
 - k) (This exemption was repealed by the legislature.)
 - l) Withholding from disclosure test questions and answers, scoring keys and sheets, and examination data used to administer a licensing examination; provided, however, that such materials are used to administer another examination.
-

APPENDIX D

FORMS AND FORMATS

Print

Meeting Notice - Submission #356

Date Submitted: 11/4/2015



Received by Town Clerk

11/5/2015



08:37 AM



Pursuant to MGL Chapter 30A, § 18-25

All meeting notices and agenda must be filed with the Town Clerk's Office and posted at least 48 hours prior to the meeting (excluding Saturdays, Sundays and Holidays). All meeting notices and agenda must be submitted to the Town Clerk for posting no later than one hour prior to the close of business.

Committee or Governing Body

Government Study Committee

Meeting Location

Town Managers Conference
Room- Town Hall

Date & Time of Meeting

11/9/2015



07:00 PM



Signature of Chairman or Authorized Person

Craig Saline

Date

11/4/2015



Agenda

Please list below the topics the chair reasonably anticipates will be discussed at the meeting.

Public Meeting Minutes Samples

IPSWICH CONSERVATION COMMISSION

Meeting Minutes

Pursuant to a written notice posted by the Town Clerk and delivered to all Conservation Commission members, a meeting was held Wednesday, May 20, 2015 at 7:04 p.m. in Room A of the Ipswich Town Hall. Members present were _____. Also present were Agent _____ and Recording Secretary _____. Absent with prior notice was _____.

DEFINITION INDEX:

(Listing of acronyms used in the minutes and their definitions.)

Citizen's Queries:

None

Ongoing Matters Being Continued to FUTURE Sessions:

MATTER:
DISCUSSION:
RECOMMENDATION OF AGENT:
MOTION: ♦ A motion was made by ____ to _____. The motion was seconded by _____ and passed unanimously.
ACTION ITEMS / SPECIAL INSTRUCTIONS: ❖
DOCUMENT LIST: <i>(Listing of all documents being part of the record of the matter)</i>

The above format for the Topic and the subject Matter is followed for each of the meeting topics as listed below.

Ongoing Matters for THIS Session:

New Public Hearings:

Other Business:

Enforcement Actions:

Requests for Certificates of Compliance:

Other Topics

Discussion Items:

Approval of Minutes:

Approval of the draft minutes of the meeting of _____ was moved by _____, seconded by _____ and approved by (unanimous) vote.

Document Signage: (No Vote Required)

Adjournment:

♦ A motion was made _____ to adjourn at 10:15 p.m. The motion was seconded by _____ and passed unanimously.

Respectfully submitted,

Recording Secretary

These minutes are the summary of a taped meeting and of secretarial notes. As such, the (*name of Board*) reserves the right to supplement these minutes with tapes and vice versa, to reflect the proceedings. The (*Name of Board*) does not guarantee the quality of the tapes, nor does it exclusively rely upon them.

WATER SUPPLY ADVISORY COMMITTEE

APPENDIX E

RELEVANT TOWN POLICIES

Retention and Reappointment of Non-Residents on Appointed Boards, Commissions and Committees of the Town of Ipswich

There being no statutory or regulatory barrier to service on appointed Town boards, commissions and committees by Massachusetts citizens who were residents of Ipswich and have become non-residents of Ipswich, but who wish to continue their service, appointing authorities should:

- take note of the change in residency status of the appointee, but take no action during the appointee's term of office, if the appointee states in writing his wish to continue to serve.
- compare the qualifications and experience of others seeking appointment to the particular position and act in what it considers to be the best interests of the Town, if said appointee requests reappointment.

Remote Participation

Town of Ipswich

Remote Participation Policy

Adopted on: April 22, 2014 Adopted By: Board of Selectmen

Purpose:

The Office of the Attorney General amended the *Open Meeting Law* regulations at 940 CMR 29.00 to allow members of public bodies, in limited circumstances, to participate remotely in meetings. While all members of Town Boards should try to attend meetings in person, the new regulations seek to promote greater participation in government meetings by allowing members to participate remotely when certain circumstances prevent them from being physically present.

The intent of this policy is to establish clear guidelines on the practice of remote participation by Town Boards under the *Open Meeting Law*, *M.G.L. c. 30A*, §§18-25.

Enabling Authority:

A municipality may adopt a policy that prohibits or further restricts the use of remote participation by public bodies within its jurisdiction.

Applicability:

In accordance with 940 CMR 29.10(2)(a), the Board of Selectmen, on [DATE OF ADOPTION], voted to authorize the adoption of 940 CMR 29.10 so that remote participation is permitted in the Town of Ipswich. In accordance with 940 CMR 29.10(3), the Board of Selectmen may revoke its adoption of 940 CMR 29.10 by simple majority vote at any time.

This policy and 940 CMR 29.10 shall apply to all Town boards, committees, commissions, sub-committees and working groups (“Town Boards”) regardless of whether such Town Boards are appointed or elected. Where the Remote Participation Policy is more stringent than 940 CMR 29.10, the Policy shall control.

Minimum Requirements for Remote Participation:

No member of a Town Board shall participate in a meeting remotely unless the following requirements are met:

- (a) Members of the Town Board who wish to participate remotely must complete an Authorization to Utilize Remote Participation Form in advance of the meeting from the Chair;
- (b) Members of the Town Board who participate remotely and all persons present at the meeting locations shall be clearly audible to each other;
- (c) A quorum of the Town Board, including the chair or the person authorized to chair the meeting, shall be physically present at the meeting locations in accordance with *M.G.L. c. 30A, §20(d)*;
- (d) Members of the Town Board who participate remotely should have access to the same materials being used at the meeting location;
- (e) Members of the Town Boards who participate remotely may vote and shall not be deemed absent for the purposes of *M.G.L. c. 39, §23D(a)*.

Permissible Reasons for Remote Participation:

It is the express desire of the Board of Selectmen that remote participation in meetings be an infrequent event. Chairs of Town Boards are encouraged to interpret these rules in a strict fashion and to continue to induce all members to attend meetings in person as a general rule, due to the inherent benefits of physical presence in a meeting.

A member of a Town Board shall be permitted to participate remotely in a meeting if the person chairing the meeting determines that one or more of the following factors make the member’s

physical attendance unreasonably difficult yet still leaves that member able to actively participate in the meeting:

- (a) Personal illness;
- (b) Personal disability;
- (c) Emergency;
- (d) Military service; or
- (e) Significant geographic distance.

Members of a Town Board shall not be permitted to participate remotely from his or her place of business or other locations if the person chairing the meeting determines that travel from that location to the meeting locations is reasonably possible.

Any determination by the person chairing the meetings to allow or not allow remote participation shall be final and shall not be appealable.

Technology:

- (a) The following media are acceptable methods for remote participation.
 - i. Telephone, internet, or satellite-enabled audio or video conferencing;
 - ii. Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.
- (b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.
- (c) The focus of the chair should always be on maintaining the flow of the meeting. If the chair determines that technical difficulties are inhibiting the progress of the meeting, the chair may elect to terminate the participation of the remote member. If technical difficulties arise resulting in the loss of connection with the remote participant, that participant's attendance shall be terminated. The meeting should not be interrupted while any attempt to restore the connection is made. If a remote participant is disconnected from the meeting, that fact and the time of the disconnection shall be noted in the meeting minutes.
- (d) Each individual Town Board that anticipates using remote participation shall determine which of the acceptable methods may be used by its members.

Procedures for Remote Participation:

- (a) Any member of a Town Board who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the person chairing the meeting of his or her desire to do so by completing the Authorization to Utilize Remote Participation Form (Appendix A).

- (b) If the person chairing the meeting approves the request for remote participation he or she shall make any necessary arrangements with IT personnel to ensure that the required equipment is available. If the required equipment is not available from the IT Department or another source, then the person chairing the meeting shall deny the request for remote participation. T:Policy/RemoteParticipation-April 2014 3
- (c) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. This information shall be recorded into the minutes.
- (d) All votes taken during any meeting shall be by roll call vote.
- (e) Remote participants shall preserve the confidentiality of executive session. Certain media, such as speakerphone, can inadvertently be heard by people not party to the executive session discussion. The remote participant shall state at the start of any executive session that no other person is present and/or able to hear the discussion at the meeting location unless the presence of that person is approved by a simple majority vote of the Town Board.
- (f) The member of a Town Board requesting to participate remotely shall be responsible for any out-of-pocket costs associated with such participation. The Town shall not be responsible for the reimbursement of such costs.
- (g) Members participating remotely are cautioned that the same obligations of consideration apply as in any physical meeting. Remote participants should direct all their attention to the meeting, and should make their decisions based upon the same information as is available to all the other participants in the meeting. The remote participant shall also state at the beginning of any meeting that no other person is in proximity and could exert undue influence on the participant, in either executive or public session, and shall inform the chair if that situation changes.

APPENDIX A

AUTHORIZATION TO UTILIZE REMOTE PARTICIPATION Certification Pursuant to 940 CMR 29.10(7)

I, _____ (printed name), being a member of
the _____ (Town Board), hereby request to
participate remotely at the meeting to be held on
_____ (date).

I certify to the chair that my absence is the result of one or more of the following factors which
make my physical attendance unreasonably difficult:

- ___ Personal illness
- ___ Personal disability
- ___ Emergency
- ___ Military services
- ___ Geographic distance

Explanation:

Signature of Committee Member

Date

Requesting to Utilize Remote Participation

THIS REQUEST HAS BEEN: ___ APPROVED ___ DENIED

If denied please state reason:

Signature of Chair

Date

Please file a copy of this completed form with the Board of Selectmen's Office.

Definition of Special Municipal Employee

Town of Ipswich
Conflict of Interest – Special Municipal Employees

Adopted on: July 23, 1979

Revised: September 12, 2005 Revised: May 5, 2014

Adopted By: Board of Selectmen

2014 JUN -3 A 10:54

Purpose:

The purpose of this policy is to designate Town of Ipswich Special Municipal Employees pursuant to Chapter 268A, section 1.

RECEIVED
TOWN CLERK
IPSWICH, MASS.

Definition of Special Municipal Employee under MGL 268A:

(n) " **Special municipal employee** ", a municipal employee who is not a mayor, a member of the board of aldermen, a member of a city council, or a selectman in a town with a population in excess of ten thousand persons and whose position has been expressly classified by the city council, or board of aldermen if there is no city council, or board of selectmen, as that of a special employee under the terms and provisions of this chapter; provided, however, that a selectman in a town with a population of ten thousand or fewer persons shall be a special municipal employee without being expressly so classified. All employees who hold equivalent offices, positions, employment or membership in the same municipal agency shall have the same classification; provided, however, no municipal employee shall be classified as a "special municipal employee" unless he occupies a position for which no compensation is provided or which, by its classification in the municipal agency involved or by the terms of the contract or conditions of employment, permits personal or private employment during normal working hours, or unless he in fact does not earn compensation as a municipal employee for an aggregate of more than eight hundred hours during the preceding three hundred and sixty-five days. For this purpose compensation by the day shall be considered as equivalent to compensation for seven hours per day. A special municipal employee shall be in such status on days for which he is not compensated as well as on days on which he earns compensation. All employees of any city or town wherein no such classification has been made shall be deemed to be "municipal employees" and shall be subject to all the provisions of this chapter with respect thereto without exception.

Designation:

Members of the following town boards, commissions and committees are hereby designated special municipal employees pursuant to Chapter 268A, section 1(n):

Agricultural Commission
Athletic Playing Fields Study Committee
Audit Committee

Bay Circuit Trail Committee
Board of Cemetery and Park Commissioners
Board of Health
Board of Assessors
Board of Survey – when activated

Cable Advisory Committee
Community Development Plan Implementation Task Force
T:Policy/SpecialMunicipalEmployees-May2014 1

Commuter Rail (MBTA Study) Committee
Conservation Commission
Constable
Council on Aging
Cultural Council

Design Review Board

Eight Towns and the Great Marsh Coalition Committee
(formerly Eight Towns and the Bay Committee)

Fair Housing Committee

Feoffees of the Grammar School in the Town of Ipswich
Finance Committee

Hall-Haskell House Committee
Historical Commission

Ipswich Affordable Housing Board of Trustees
Ipswich Affordable Housing Partnership
Ipswich Community Access Media (ICAM)
Ipswich River Watershed Advisory Board member

Library Trustees

Moderator
Mosquito Control Advisory Committee

Open Space Committee

Planning Board
Public Safety Facilities Committee

Recreation Committee

Registrars of Voters
Recycling Committee

Sandy Point Advisory Committee
School Committee
Shellfish Advisory
Shade Tree and Beautification Committee
Stormwater Advisory Committee

Town Government Study Committee
Trust Fund Commissioners

Utilities Sub-Committees (Electric, Water, and Wastewater)

Waterways Advisory Committee
Whittier School Representative

Zoning Board of Appeals

Upon appointment or election, employees and special municipal employees are required to certify that they have read and understand the requirements of Chapter 268A. This information is available online at <http://mass.gov/ethics>

Ethics Training Requirement:

Every 2 years, all municipal employees, members of municipal boards, committees and commissions must complete online training. New appointees and elected officials must complete this training within 30 days of beginning public service, and every 2 years thereafter. Upon completing the program, employees should print out the completion certificate and keep a copy for themselves. Employees will be required to provide a copy of the completion certificate to the Town or City Clerk. Training is available online at <http://www.mass.gov/ethics>

Compliance:

Compliance with Chapter 268A is the responsibility of the employee; enforcement is the responsibility of the Ethics Commission. Employees are encouraged to contact the Ethics Commission at 888-485-4766 in advance of taking any action which may constitute a violation under Chapter 268A.

APPENDIX F

Conflict of Interest Statute

M.G.L., c. 268A

Introduction to the Conflict of Interest Law for the Public Sector

Chapter 268A of the General Laws governs your conduct as a public official or employee. Below are some of the general rules that you must follow. You could face civil and criminal penalties if you take a prohibited action. Many aspects of the law are complicated and there are often exemptions to the general rules. We encourage you to seek legal advice from the Commission or your agency's legal counsel regarding how the law would apply to you in a particular situation.

In general:

- You may *not* ask for or accept *anything* (regardless of its value), if it is offered in exchange for your agreeing to perform or not perform an official act.
- You may *not* ask for or accept anything worth \$50 or more from anyone with whom you have official dealings. Examples of prohibited "gifts" include: sports tickets, costs of drinks and meals, travel expenses, conference fees, gifts of appreciation, entertainment expenses, free use of vacation homes and complimentary tickets to charitable events. *If a prohibited gift is offered:* you may refuse or return it; you may donate it to a non-profit organization, provided you do not take the tax write-off; you may pay the giver the full value of the gift; or, in the case of certain types of gifts, it may be considered "a gift to your public employer", provided it remains in the office and does not ever go home with you. You may not accept honoraria for a speech that is in any way related to your official duties, unless you are a state legislator.
- You may *not* hire, promote, supervise, or otherwise participate in the employment of your immediate family or your spouse's immediate family.
- You may *not* take any type of official action that will affect the financial interests of your immediate family or your spouse's immediate family. For instance, you may not participate in a licensing or inspection process involving a family member's business.

- You may *not* take any official action affecting your own financial interest, or the financial interest of a business partner, private employer, or any organization for which you serve as an officer, director or trustee. For instance: you may not take any official action regarding an "after hours" employer, or its geographic competitors; you may not participate in licensing, inspection, zoning or other issues that affect a company you own, or its competitors; if you serve on the Board of a non-profit organization (that is substantially engaged in business activities), you may not take any official action which would impact that organization, or its competitors.
- Unless you qualify for an exemption, you may *not* have more than one job with the same municipality or county, or more than one job with the state.
- Except under special circumstances, you may *not* have a financial interest in a contract with your public employer. For example, if you are a full time town employee, a company you own may not be a vendor to that town unless you meet specific criteria, the contract is awarded by a bid process, and you publicly disclose your financial interest.
- You may *not* represent anyone but your public employer in any matter in which your public employer has an interest. For instance, you may not contact other government agencies on behalf of a company, an association, a friend, or even a charitable organization.
- You may not *ever* disclose confidential information, data or material which you gained or learned as a public employee.
- Unless you make a proper, public disclosure in writing - including all the relevant facts - you may *not* take any action that could create an appearance of impropriety, or could cause an impartial observer to believe your official actions are tainted with bias or favoritism.
- You may *not* use your official position to obtain unwarranted privileges, or any type of special treatment, for yourself or anyone else. For instance: you may not approach your subordinates, vendors whose contracts you oversee, or people who are subject to your official authority to propose private business dealings.

- You may *not* use public resources for political or private purposes. Examples of "public resources" include: office computers, phones, fax machines, postage machines, copiers, official cars, staff time, sick time, uniforms, and official seals.
- You may *not*, after leaving public service, take a job involving public contracts or any other particular matter in which you participated as a public employee.

[Summary of the Conflict of Interest Law for State Employees](#)

[Summary of the Conflict of Interest Law for County Employees](#)

[Summary of the Conflict of Interest Law for Municipal Employees](#)



The Official Website of the State Ethics Commission

State Ethics Commission
[Home](#) > [Commission Services](#) > [Request Advice](#)
Request Advice from the Legal Division

Anyone who is covered by the conflict of interest law may request free legal advice about how the law applies to them in a particular situation. The advice is confidential in most circumstances. You may request advice by calling the "Attorney-Of-The-Day," or online, or in writing by U.S. Mail.

Please do not request advice for the same question using more than one of these methods.

Please note that the Legal Division will not return any original materials submitted in support of requests for legal advice.

1. Call the "Attorney-of-the-Day" (617) 371-9500/(888) 485-4766

The Attorney-of-the-Day will return your call as soon as possible, and within 1 business day if you indicate that the matter requires an urgent response because it is a time-sensitive issue, such as you need to get advice on the issue before you attend a meeting that evening.

OR

2. Make a Request Online

You may submit a request for telephone or written advice from the Legal Division. If you request telephone advice, the Attorney-of-the-Day will return your call as soon as possible, and within 1 business day if you indicate that the matter requires an urgent response because it is a time-sensitive issue, such as you need to get advice on the issue before you attend a meeting that evening.

If you request written advice, you generally will receive an informal written opinion from the Legal Division within 30 days.

OR

3. Send a Letter Requesting an Informal Written Advisory Opinion

To request an informal written opinion from the Legal Division, please include all relevant facts and a specific question. You generally will receive an informal written advisory opinion from the Legal Division within 30 days. Please mail your request to:

State Ethics Commission
Legal Division
One Ashburton Place, Room 619
Boston, MA 02108

The Legal Division gives advisory opinions pursuant to G.L. c. 268B, § 3(g) and 930 CMR 3.01.

The Legal Division will NOT respond to requests seeking advice concerning:**1. The conduct of another individual**

The Legal Division may provide you only with advice concerning your own conduct.

2. Conduct that has already occurred

The Legal Division may provide you only with advice concerning your future conduct.

3. Issues that are not covered under G.L. c. 268A, the conflict of interest law

The Legal Division may only provide you with advice concerning G.L. c. 268A, the conflict of interest law and 268B, the enabling statute for the State Ethics Commission.

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